

Message Text

SECRET

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FM AMEMBASSY SEOUL
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S E C R E T SECTION 1 OF 2 SEOUL 1614

NODIS

CHEROKEE

EO 11652: GDS
TAGS: PARM PINT SHUM
SUBJ: REPLY TO PRESIDENT CARTER'S LETTER

REF: A. STATE 33149 B. STATE 33148 C. SEOUL 1353 D. SEOUL 1613

SUMMARY: PRESIDENTIAL SECRETARY GENERAL KIM CHONG-YOM CALLED ME IN FEBRUARY 26 TO PRESENT REPLY TO PRESIDENT CARTER'S LETTER (REF A). TEXT OF PRESIDENT PARK'S LETTER SENT SEPTEL REF D AND ORIGINAL TEXT BEING POUCHED. KIM FURTHER ELABORATED ON PRESIDENT PARK'S CONTENTION THAT THERE IS NO HUMAN RIGHTS ISSUE IN KOREA. HE ARGUED THAT ROKG IS ACTING CONSTITUTIONALLY, LAWFULLY, AND WITH FULL DUE PROCESS OF LWA IN CONVICTING VIOLATORS OF EMERGENCY DECREE NUMBER 9, WITH PARTICULAR REFERENCE TO MYONGDONG DEFENDERS. EMERGENCY DECREE JUSTIFIED BY SERIOUS THREAT TO SOUTH KOREA. I REITERATED VIEWS SET FORTH IN PRESIDENT CARTER'S LETTER AND URGED CONTINUED CONSIDERATION BY ROKG OF HUMAN RIGHTS ISSUE. END SUMMARY.

1. IN OPENING HIS PRESENTATION, KIM SAID THAT "SOME PEOPLE" ALLEGE HUMAN RIGHTS ARE VIOLATED AND INFRINGED

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UPON IN KOREA AND POLITICAL PRISONERS HELD WITH PARTICULAR REFERENCE TO MYONGDONG DEFENDANTS. CONSIDERED VIEW OF ROKG IS THAT HUMAN RIGHTS QUESTION ARISES ONLY IF, FIRST, GOVERNMENTS ACTS ILLEGALLY OR UNLAWFULLY, SECOND, LAWS ARE NOT ENACTED IN ACCORDANCE WITH THE CONSTITUTIONAL PROCESS, AND THIRD, DEFENDANTS ARE SUBJECT TO ILLEGAL TREATMENT SUCH AS SECRET TRAILS,

TORTURE, OR PUNISHMENT WITHOUT TRIAL. IN CASE OF KOREA
NONE OF THESE CONDITIONS IS TRUE.

2. KIM ARGUED THAT PRESENT CONSTITUTION WAS ENACTED
LAWFULLY AND APPROVED BY NATIONAL REFERENDUMS IN
DECEMBER 1972 AND FEBRUARY 1975, BOTH CONDUCTED IN A
FREE DEMOCRATIC ATMOSPHERE. WHILE IT MIGHT BE
CONTENDED THAT FIRST REFERENDUM WAS CONDUCTED UNDER
MARTIAL LAWS AND THEREFORE TAINTED, SECOND WAS
CONDUCTED IN FREE ATMOSPHERE WITH PUBLIC GUARANTEED
FREE CHOICE AND FULLY AWARE OF PROVISIONS OF
CONSTITUTION SINCE THEY HAD BEEN IN EFFECT FOR MORE
THAN TWO YEARS. OVERWHELMING MAJORITY OF PUBLIC APPROVED
CONSTITUTION DEMOCRATICALLY IN BOTH CASES.

3. KIM WENT ON THAT AS PRESIDENT'S LETTER STATES
KOREAN CONSTITUTION GUARANTEES BASIC RIGHTS INCLUDING
RIGHT TO CRITICIZE. AT SAME TIME IT EMPOWERS THE
PRESIDENT TO ENACT EMERGENCY DECREES WHEN
NATIONAL SECURITY OR PUBLIC LAW AND ORDER ARE THREATENED
OR LIKELY TO BE THREATENED. A PROVISION PARALLELED IN
OTHER DEMOCRATIC STATES. THE AUTHORITY
TO DECREE AN EMERGENCY RESTS ENTIRELY WITH THE
PRESIDENT. HOWEVER, HIS DECISION IS SUPPORTED BY
THE MAJORITY OF KOREANS WHO BELIEVE THAT A SEMI-STATE OF
WAR AND INCESSANT MILITARY THREATS BY NORTH KOREA
JUSTIFY THE EMERGENCY DECREE. THUS, THOSE PEOPLE
CONVICTED FOR THE MYONGDONG INCIDENT WERE TRIED UNDER
DUE PROCESS OF LAW BY THE COURTS FOR VIOLATING
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EMERGENCY DECREE NUMBER 9 PROMULGATED
LEGALLY BY PRESIDENT PARK UNDER THE CONSTITUTION.
KIM SUMMED UP KOREAN JUSTIFICATION, BY POINTING OUT EM 9
ENACTED CONSTITUTIONALLY AND LAWFULLY, AND APPLIED FAIRLY
AND LAWFULLY. FURTHERMORE, MYONGDONG DEFENDANTS WERE
TRIED BY AN INDEPENDENT FAIR JUDICIARY IN OPEN COURT
SESSIONS ATTENDED EVEN BY FOREIGN CORRESPONDENTS. THESE
DEFENDANTS MUST BE SUBJECT OF THE VERDICT OF THE COURT
WHICH HAS THE POWER TO DECIDE THEIR GUILT OR INNOCENCE,
AND NO MAN CAN BE EXEMPTED FROM APPLICATION OF LAWS
ENACTED IN CONFORMITY WITH THE CONSTITUTION. THE MYONGDONG
DEFENDANTS HAVE BEEN CONVICTED IN LOWER COURTS, THUS,
OF VIOLATING DECREES LAWFULLY ENACTED UNDER CONSTITUTION.

4. KIM SAID THAT, WHILE HE WISHED TO AVOID COMPARISONS,
THERE IS DIFFERENCE BETWEEN KOREAN ACTIONS AND THOSE OF
CHILE, UGANDA AND ETHIOPIA. FOR
EXAMPLE WHERE POLITICAL PRISONERS WERE TRIED BY MILITARY
COURTS SECRETLY, WITHOUT LAWS PROPERLY ENACTED AND

EXECUTED AFTER RIGHT OF APPEAL DENIED.

5. NONE OF THESE CONDITIONS WERE TRUE IN KOREA. KIM
RECOGNIZED THAT DIFFERENT COUNTRIES HAD DIFFERENT LAWS
BUT OF COURSE THEIR REQUIREMENTS WERE DIFFERENT.
KOREA FACED SERIOUS THREAT FROM NORTH AND REQUIRED
EM 9 AND ANTI-COMMUNIST LAWS AS LONG AS KOREA NOT
UNIFIED. KIM CONCLUDED BY REQUESTING THAT I PRESENT
THESE VIEWS TO MY GOVERNMENT TO WHICH I SAID I WOULD.

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6. I POINTED OUT IN RESPONSE TOKIM THAT THERE WERE
SEVERAL QUESTIONS AT LEAST INVOLVED. FIRST, IT WAS THE
VIEW OF "SOME" AMERICANS THAT THE THREAT TO SOUTH KOREA

DID NOT DICTATE THE DEGREE OF LIMITATION ON THE RIGHT
OF DISSENT AND THE DEGREE OF SURVEILLANCE OVER POTENTIAL
DISSENTERS. SECOND, THERE EXISTS THE PROBLEM STATED
IN PRESIDENT CARTER'S LETTER RELATING TO CONGRESSIONAL
AND PUBLIC CONCERN, SHARED BY THE PRESIDENT, REGARDING
HUMAN RIGHTS ISSUES THROUGHOUT THE WORLD. THIS PROBLEM WAS
POINTED UP IN SECRETARY VANCE'S TESTIMONY FEB 17 ON FOREIGN
ASSISTANCE WHILE, AS PRESIDENT CARTER HAD STATED, WE HAVE NO
WISH TO INVOLVE OURSELVES IN KOREA'S DOMESTIC AFFAIRS
OR SEEK ALTERATION OF ITS GOVERNMENTAL STRUCTURE, THESE
PROBLEMS EXISTED AND THERE WERE THOSE IN PARTICULAR
URGING CLEMENCY AND LENIENCY FOR MYONGDONG
DEFENDANTS. I URGED THEREFORE THAT THIS ISSUE BE
KEPT UNDER ACTIVE AND FULL CONSIDERATION BY ROKG.

7. KIM RESPONDED THAT IF UNLIMITED DISSENT WERE PERMITTED, THERE IS NO DOUBT THAT SOCIAL AND POLITICAL DISORDER WOULD ARISE AS WAS APPARENT FROM THE EXPERIENCE

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OF PAST 10 YEARS. THIS WOULD LEAD TO GREATER CONFUSION AND FORCE THE GOVERNMENT TO TIGHTEN CONTROLS. IT IS THE VIEW OF THE ROKG THAT POLITICAL AND SOCIAL STABILITY ARE INDISPENSABLE AT THE PRESENT TIME FOR SELF-RELIANT DEFENSE, SELF-SUPPORTING ECONOMIC GROWTH, AND INDEED NATIONAL POWER AND SURVIVAL. THE ALTERNATIVE IS DISSENT LEADING TO A VICIOUS CYCLE OF CONFUSION AND CONTROL.

8. I RESPONDED THAT IN THE CASE OF KOREA NATIONAL POWER WAS ALSO DEPENDENT UPON THE SUPPORT OF ITS ALLIES AND A NATION'S STRENGTH COULD BE ERODED BY A WEAKENING OF THIS SUPPORT. PRESIDENT CARTER RECOGNIZED THIS IN PROVIDING ASSURANCES OF OUR COMMITMENT TO KOREA'S SECURITY IN HIS LETTER. BUT, THERE IS ALSO IN A RELATIONSHIP BETWEEN ALLIES THE IMPORTANT ELEMENT OF MUTUALITY AND RECIPROCITY IN UNDERSTANDING PROBLEMS OF ONE'S ALLY, WHICH IS WHAT WE ARE URGING.

9. KIM REPLIED THAT IF THE AMERICAN PEOPLE AND CONGRESS KNEW THE REAL SITUATION IN KOREA, THEY WOULD HAVE NO MISGIVINGS. I CLOSED THE CONVERSATION BY POINTING OUT THAT, AS KIM AWARE, EVEN SOME OF KOREA'S CLOSE AND UNDERSTANDING FRIENDS IN CONGRESS WOULD NOT AGREE FULLY WITH THESE POLICIES IN HUMAN RIGHTS AREA.

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